IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3777 OF 2005

Mr.Kabir Mulchandani ..Applicant

Vs.

State of Maharashtra & Ors. ..Respondents

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Ms.Ashar Pallavi for Mr.A.M.Saraogi for Applicant
Ms.S.V.Gajare, A.P.P.for the State

...

CORAM: SMT.V.K.TAHILRAMANI,J.

DATE : JULY 26,2005

P.C.

1. Heard the learned advocate for the applicant and the learned A.P.P. for the State.

2. The applicant is seeking quashing of complaint i.e. Criminal Case No.3/S of 2002 which is now transferred and pending before the Court of the Small Causes Court, Mumbai. In the said case, the process has been issued against the applicant under Section 138 r.w. 141 of Negotiable Instruments

Act. The learned advocate for the applicant submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside. If the process issued against the applicant is set aside, the proceedings in respect of the applicant, would come to an end.

3. However, for the reasons recorded in my order dated 13th June, 2005 in W.P.No. 213 of 2005 and dated 21st June, 2005 in Cri.Application No.550 of 2005, I am of the opinion that the applicant has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the applicant prefers a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicant to prefer the necessary revision before the concerned Sessions Court. The learned advocate for the applicant makes a statement that the necessary revision will be preferred within four weeks from today. In view of this statement, the trial Court

shall not proceed with the trial for a period of four weeks.

5. On the necessary revision being preferred by the applicant before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties.

6. The learned advocate for the applicant has stated that NBWs have been issued against the applicant by the trial Court and the learned advocate for the applicant prayed that NBWs be quashed. I am not inclined to quash the said NBWs as in my opinion, it would be appropriate that the applicant approaches the trial Court and prefers an application for setting aside NBWs. In order to enable the applicant to take necessary steps in respect of NBWs before the trial Court, NBWs are stayed for a period of four weeks from today.

7. Criminal Application is disposed of.

[V.K.TAHILRAMANI,J.]